

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**  
**LOWELL J. BRITT,**

**Plaintiff,**

**3:22-cv-0692  
(GLS/ML)**

**v.**

**JOHN DOE, STATE OF NEW  
YORK et al.**

**Defendants.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Lowell J. Britt

*Pro Se*

Orleans Correctional Facility  
3531 Gaines Basin Road  
Albion, NY 14411

**Gary L. Sharpe  
Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following an Order and Report-Recommendation (R&R) by Magistrate Judge Miroslav Lovric, duly filed October 13, 2022. (Dkt. No. 7.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Order and Report-Recommendation (Dkt. No. 7) is **ADOPTED** in its entirety; and it is further

**ORDERED** that plaintiff's complaint (Dkt. No. 1) is **DISMISSED WITHOUT PREJUDICE** and **WITHOUT LEAVE TO REPLEAD** as to:

(1) claims against defendants John Doe, State of New York and Jane Doe, State of New York in their official capacities, and (2) claims against defendants John Doe, Broome County District Attorney's Office, and Jane Doe, Broome County District Attorney's Office in their individual or official capacities, because plaintiff seeks monetary relief against defendants who are immune from such relief, pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(a); and it is further

**ORDERED** that plaintiff's complaint (Dkt. No. 1) is **DISMISSED WITH LEAVE TO REPLEAD** as to:

(1) claims against defendants John Doe, State of New York and Jane Doe, State of New York, in their individual capacities, (2) claims against defendants David Harder and Sheriff John Doe in their individual and official capacities, and (3) claims against defendant Nicholas Miller in his official capacity, because they fail to state a claim upon which relief

may be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(a); and it is further

**ORDERED** that, if plaintiff files an amended complaint, he is warned that any amended complaint must be a complete and separate pleading.

Plaintiff must state all of his claims in the new pleading and may not incorporate by reference any part of his original complaint; and it is further

**ORDERED** that plaintiff's amended complaint shall be filed within thirty (30) days of the date of this Order; and it is further

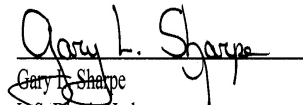
**ORDERED** that, if plaintiff files an amended complaint, such proposed amended complaint will be referred to Magistrate Judge Lovric for initial review; and it is further

**ORDERED** that, if plaintiff fails to file an amended complaint within the time permitted, the Clerk is directed to close this case without further order of the court; and it is further

**ORDERED** that the Clerk provide a copy of this Order to plaintiff in accordance with the Local Rules of Practice.

**IT IS SO ORDERED.**

November 1, 2022  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge